

# EXHIBIT S

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JAMES JIRAK and ROBERT  
PEDERSEN,

Plaintiffs,

vs.

ABBOTT LABORATORIES, INC.,

Defendant.

)  
)  
)  
)  
) No: 07 C 3626  
) Judge Castillo  
) Magistrate Judge Keys  
)  
)  
)

The videotaped deposition of CHERYL FULLER,  
taken on behalf of the Defendant, taken pursuant  
to agreement of counsel, taken for all purposes  
authorized by the Federal Rules of Civil  
Procedure; the reading and signing of the  
deposition being reserved; taken before Bonnie L.  
Smith, RPR, Certified Court Reporter and Notary

Public, commencing at 10:09 a.m., on this the

26th day of August, 2009, at 1420 Peachtree

Street, Atlanta, Georgia.

1 counterparts that you had to think about. So you  
2 couldn't have the whole minute to yourself.

3 And if it was a large group practice, a lot  
4 of times there would be like a doctor of the day who  
5 was on lunch duty and they would have to go in and  
6 listen to the spiel and he was to represent the entire  
7 office.

8 Q. Were there ever lunches that lasted longer  
9 than a minute with the actual doctor?

10 A. Sometimes, but it was rare.

11 Q. Okay.

12 A. Especially lately, like in '05/'06. It  
13 became increasingly rare.

14 Q. Do you know -- but prior to 2005 were  
15 lunches longer?

16 A. Sometimes. More often than they were toward  
17 that end of time period.

18 Q. If you did have more time with the doctor,  
19 what would you talk to them about?

20 A. I would use the sales aid that they give us  
21 at our quarterly meetings and I would show them, you  
22 know, what our product does, how it works in the body,  
23 and why I feel that they should prescribe it instead  
24 of the -- I guess the competition is what you could  
25 say.

1           And then I would use what -- you know, what  
2           they told us at our sales meeting, what we should say,  
3           how we should say it, what we should use, and that's  
4           it.

5           Q.     What was in the sales aid?

6           A.     They would -- there would be colorful graphs  
7           and bullet points about the product.

8           Q.     And would you receive a sales aid every  
9           quarter?

10          A.     Yes.

11          Q.     Would you receive them during those training  
12          meetings that you were talking about?

13          A.     Yes.   Sometimes they would arrive prior.

14          Q.     Prior to the training?

15          A.     Yes.   So you could read over the material  
16          before you got there.

17          Q.     How long were these sales aids on average?

18          A.     I would say they were probably about this  
19          thick.   I mean, I don't remember how many pages, but  
20          they were fairly thin.

21          Q.     Okay.

22          A.     I mean, I don't know if -- I don't know if  
23          you'd call this thin or thick, but it was about the  
24          thickness of this here.

25          Q.     Okay.

1 Q. What types of administrative work were you  
2 responsible for?

3 A. Expense reports, reports on what we were  
4 doing in the field, how we were doing it. We had to  
5 do what we called pre- and post-call notes. So every  
6 time you went on a call, you were supposed to look at  
7 a note and decide what you're going to talk to the  
8 physician about, which was futile because really you  
9 never really got to talk to them.

10 Then once your visit was over, you would sit  
11 down and you'd have to write what you talked about or  
12 if you just left samples. And that was very important  
13 because if you didn't, that could -- you could be  
14 in -- not in trouble, but it would not be a good  
15 thing.

16 Q. It wouldn't be a good thing if you didn't  
17 write down notes --

18 A. Yes.

19 Q. -- afterwards?

20 A. Yes.

21 Q. Why would it not be a good thing?

22 A. Because there's no real -- when your  
23 district manager or someone wants to look at your  
24 reports and things, they're going to want to know what  
25 you talked about. And if there aren't any notes, then

1 they'll say, well, what did you talk about.

2 Q. So where would you enter in these notes?

3 A. They would either be on the computer, the  
4 laptop that we had, or the little hand-held device.

5 Q. Like a PDA?

6 A. Yes.

7 Q. When you say it would either be on the  
8 laptop or on the PDA --

9 A. Uh-huh.

10 Q. -- are they in two separate locations then,  
11 like the data?

12 A. The PDA is what you would take in to the  
13 physician to have him sign for the samples. And the  
14 computer is -- would oftentimes be in your car with  
15 you. And the information at night, you're supposed to  
16 synch it --

17 Q. Okay.

18 A. -- so that they can -- you know, so that the  
19 information can be uploaded to the computer. And then  
20 you have to synch it again to upload it to the host at  
21 Abbott.

22 Q. So all of the information at some point  
23 comes -- gets put together?

24 A. That's correct.

25 Q. And so you would report all of your -- your

1 together?

2 A. You would draft what you wanted to do and  
3 then you kind of all came together and tweaked it  
4 based upon what they wanted to do, what you wanted to  
5 do and what would be best for the team.

6 Q. Okay.

7 A. You would also in your business plan discuss  
8 how many lunches you planned to do. You would discuss  
9 how many education programs you would plan to do, what  
10 physician you should target. Because what they would  
11 do, like, for our programs, they would give us, like,  
12 this list. They would say, hey, we've got these  
13 physicians we've trained on the product and these are  
14 the people that are in your area. We'd like for you  
15 to use them. So as a result in your business plan,  
16 you said, okay, we're going to do so many, because you  
17 had money that you had to spend.

18 Q. So you would receive a list of physicians  
19 that you could use for these programs?

20 A. Yes. They were approved physicians --

21 Q. Okay.

22 A. -- and preferred physicians sometimes.

23 Q. And how would you describe in that group, in  
24 that list of physicians, who to actually use for the  
25 program?

1           A.     Well, it was usually regional lists and if  
2     they were local, you should use the local physician --

3           Q.     Okay.

4           A.     -- unless otherwise directed by management.

5           Q.     Besides your initial training at Abbott, did  
6     you also receive additional training?

7           A.     Yes.

8           Q.     And what other types of training sessions  
9     did you receive or did you attend?

10          A.     Every -- I think it was annually you had a  
11     national meeting and I think maybe you had two to  
12     three a year regional-wise and what that would do is  
13     you would roll out a new marketing sales aid, new  
14     marketing materials. And you would go there to learn  
15     how to use those marketing materials, what should be  
16     said, what the marketing message was. You would  
17     practice the marketing message. And you would  
18     subsequently practice with your counterparts. You  
19     would receive objections and how to handle those  
20     objections.

21          Q.     How long did these regional meetings last?

22          A.     I think two days, maybe three days. I  
23     really am not sure. But they were usually an  
24     overnight trip.

25          Q.     And how long were the national meetings?



1 Q. Do you remember any particular advice that  
2 you received from these people from marketing?

3 A. Nothing specific.

4 Q. How often would people from marketing  
5 accompany you on these calls?

6 A. Not very often. They would always rotate  
7 because they wanted to see something different.

8 Q. Was it often as once a month?

9 A. I have no idea because there's just so many  
10 of us that they would ride with. So I don't know how  
11 often they came down.

12 Q. Can you think of any other situations where  
13 there was anyone else that was with you when you were  
14 on your calls?

15 A. No.

16 Q. How often did you interact with your  
17 supervisor in 2005 and 2006?

18 A. I don't remember.

19 Q. Would you say that you spoke with him every  
20 day?

21 A. We received voice mails daily.

22 Q. And what type of items were discussed in the  
23 voice mails?

24 A. Marketing items, sale items, you know.

25 Q. When you're saying marketing items, do you

1 mean just new initiatives for marketing?

2 A. I just remember them being marketing. I  
3 don't remember specifically what they were about.

4 Q. How else did you interact with your district  
5 managers besides -- district manager besides voice  
6 mails?

7 A. E-mail and the field travel visits.

8 Q. Would you ever speak with him on the phone?

9 A. Rarely.

10 Q. How often would you e-mail your district  
11 manager?

12 A. I don't remember.

13 Q. Do you remember having to e-mail with him  
14 every day?

15 A. I don't remember.

16 Q. Was there any way for your manager to  
17 monitor what you were doing on a day-to-day basis?

18 A. Yes.

19 Q. How was he able to monitor what you were  
20 doing?

21 A. When you capture the signature from the  
22 physician for the samples, it's time stamped and --  
23 and dated. So when you synch with your computer and  
24 the home computer, they get a report. So they know  
25 what time you made the call, what day you made the

1     attainment is below district attainment. And that  
2     means that you were below -- your territory was below  
3     the district performance?

4             A.     For quota, yes.

5             Q.     For quota. Okay. And then the second core  
6     job responsibility listed is territory management;  
7     right?

8             A.     Yes.

9             Q.     And then under assessment, it states that  
10    you used marking reports to assess territory. How did  
11    you use the marketing reports to assess territory?

12            A.     The marketing reports were used to decide --  
13    or, try to assess if the physician was writing the  
14    product or not and who, you know, you should possibly  
15    have one of those educational programs for or which  
16    doctor you may need to see more often.

17            Q.     And then under the next core job  
18    responsibility of resource utilization, the assessment  
19    states that you utilize clinical reprints, marketing  
20    items, and reports. How do you utilize clinical  
21    reprints, marketing items, and reports?

22            A.     The clinical reprints are used like the  
23    sales aid. You would receive clinical reports from  
24    our legal marketing department and you would be told  
25    what pages, you know, had the information that you

1 should be presenting to the physician. And so that's  
2 how you would use those.

3 And the sales marketing material would be  
4 the sales aids, your pens, any little type of gimmicky  
5 things that would be used to brand the office. And  
6 then the reports again would be to help assess if the  
7 physician is prescribing or not.

8 Q. And then in terms of the reprint, did you  
9 have to read the entire reprint in order to utilize  
10 it?

11 A. Yeah.

12 Q. Okay.

13 A. Yeah, you need to read it.

14 Q. And then were you -- did you summarize the  
15 reprint so that you could present it to the doctor?

16 A. No. What would happen is you would be given  
17 this reprint and you would be trained on it and you  
18 would be -- there were certain sentences that, you  
19 know, they felt -- Abbott felt would be more  
20 beneficial in marketing the product. So those would  
21 then be the sentences that you should use in your  
22 presentation.

23 Q. In order to understand how to use those  
24 sentences in the reprint, did you have to understand  
25 the entire reprint?